

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-006849

02/27/2009

HONORABLE KENNETH L. FIELDS

CLERK OF THE COURT
L. Gilbert
Deputy

LAURA SMALLWOOD

JOE M ROMLEY

v.

DUANE MAURICE WOOTEN

ROBERT D WOOTEN

MINUTE ENTRY

The Court has received and reviewed Plaintiff's Motion to Set and Certificate of Readiness. (Please note: It is this division's practice to not set a conference date at this time, but rather to have the parties submit a joint pretrial memorandum and proposed scheduling order for the Court's signature as set forth below.)

IT IS ORDERED as follows:

Counsel are to meet personally to discuss all of the matters set forth in Rule 16(b), A.R.Cv.P. Counsel shall prepare and file with the Court, no later than **March 27, 2009**, a Joint Pretrial Memorandum, and a proposed Order, for discovery, motion and disclosure deadlines.

If the parties agree to the dates, they should prepare an Order in the form set forth below, containing the provisions which are applicable to their case. For example, paragraph 1 of the Order set forth below need not be included in the parties' proposed Order if the parties intend to disclose their experts' identity and opinions at the same time they disclose their experts' areas of testimony. Similarly, if the parties agree to simultaneously disclose the identity and opinions of their expert witnesses, they need not include in their proposed Order the language set forth in paragraph 2a. and b., below.

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The proposed Order shall include specific dates (“December 5, 2009” is a specific date. “90 days prior to trial” is a date in reference to a trial date and is not a specific date). All applicable blanks should be filled in, except for the date of the Scheduling/Status Conference, as indicated. Do not incorporate a firm trial date in the proposed Order.

If counsel are unable to agree on any of the items that are to be included in the Order, the reasons for their inability to agree shall be set forth in their Pretrial Memorandum and each shall prepare a separate proposed Order.

The Court will review the Joint Pretrial Memorandum and proposed Scheduling Order. If all is in order, the Court will set a scheduling/status conference close to the discovery cutoff date. At the scheduling/status conference, if the parties have completed discovery and are ready for trial, the Court will set firm dates for the final pretrial management conference and the trial. If the parties are not ready for trial, the matter will be placed on the Inactive Calendar for dismissal **within 60 days**.

If counsel feel a pretrial conference is still necessary at this stage of the litigation, they should address the reasons why in the first paragraph of the Joint Pretrial Memorandum.

If a Joint Pretrial Conference Memorandum and proposed Scheduling Order are not timely submitted, the Court will place the matter on the Inactive Calendar for dismissal.

Counsel shall provide prepaid return-addressed envelopes for the return mailing of the Scheduling Order and the appropriate number of copies of the Scheduling Order for all parties involved in this case.

* **PLEASE NOTE:** Effective March 16, 2009, all cases assigned to Judge Kenneth L. Fields will be re-assigned to Judge John Rea due to judicial calendar rotations. Judge Rea will be located in the East Court Building, 101 West Jefferson, Suite 414, Phoenix, Arizona, 85003.

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SCHEDULING ORDER LANGUAGE:

The Court has received and reviewed the parties' Joint Pretrial Memorandum and proposed Scheduling Order.

In accordance therewith,

IT IS ORDERED as follows:

1. The parties shall mutually and simultaneously disclose areas of expert testimony by **5:00 p.m. on _____, 200_.** [or]
 - a. Plaintiffs shall disclose areas of expert testimony by **5:00 p.m. on _____, 200_.**
 - b. Defendants shall disclose areas of expert testimony by **5:00 p.m. on _____, 200_.**
2. The parties shall mutually and simultaneously disclose the identity and opinions of their expert witnesses by **5:00 p.m. on _____, 200_.** [or]
 - a. Plaintiffs shall disclose the identity and opinions of their expert witnesses by **5:00 p.m. on _____, 200_.**
 - b. Defendants shall disclose the identity and opinions of their expert witnesses by **5:00 p.m. on _____, 200_.**
3. Any and all discovery requests shall be served by **5:00 p.m. on _____, 200_.**
4. The parties shall disclose all non-expert witnesses by **5:00 p.m. on _____, 200_.** [or]
 - a. Plaintiffs shall disclose areas of non-expert testimony by **5:00 p.m. on _____, 200_.**
 - b. Defendants shall disclose areas of non-expert testimony by **5:00 p.m. on _____, 200_.**
5. The parties shall mutually and simultaneously disclose their rebuttal expert witnesses and opinions by **5:00 p.m. on _____, 200_.**

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6. All discovery shall be concluded by **5:00 p.m. on _____, 200_.**
7. The parties shall have exchanged up-to-date final Rule 26.1 Supplemental Disclosure Statements by **5:00 p.m. on _____, 200_.** This Order does not replace the parties' obligation to seasonably disclose on an on-going basis under Rule 26.1 as information becomes available.
8. Settlement conference (choose one):

a.

PRIVATE MEDIATION

The parties shall participate in private mediation by **5:00 p.m. on _____, 200_;**

All counsel and their clients, or non-lawyer representatives who have full and complete authority to settle this case, shall personally appear and participate in good faith in this mediation, even if no settlement is expected. The mediator may permit a non-lawyer representative to appear telephonically if such appearance is requested and granted prior to the hearing.

OR

b.

REFERRAL TO ADR FOR SETTLEMENT CONFERENCE

****Referral will be issued by Clerk via separate minute entry.****

The parties request a referral to the Court's Alternative Dispute Resolution Office (ADR) for the appointment of a judge *pro tempore* to conduct a settlement conference. The parties request that the judge *pro tempore* conduct a settlement conference not later than _____, **200_.** (**NOTE:** The ADR Office requires a minimum of 90 days to set a conference date.)

9. No expert witnesses, expert opinions, lay witnesses, or exhibits shall be used at trial other than those disclosed in a timely manner, except for good cause shown or written agreement of the parties.
10. All pretrial motions, other than motions *in limine*, must be filed by **5:00 p.m. on _____, 200_.**

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11. A Telephonic Status/Scheduling Conference is set for the purpose of assigning a trial date on LEAVE DATE AND TIME BLANK (time allotted: 10 minutes).
Counsel shall have their trial calendars available for the conference.
- 12.

NOTE: Counsel for the _____ is to initiate the telephonic conference by first arranging the presence of all other counsel or self-represented parties on the conference call and by calling this division (**602-372-6201**) at the scheduled time.

PLEASE NOTE: If this **JOINT PRETRIAL MEMORANDUM** and proposed **SCHEDULING ORDER** are filed electronically, a separate minute entry will be entered setting a SCHEDULING AND STATUS CONFERENCE for the purpose of setting a trial date.

13. Should any discovery disputes arise, counsel, prior to filing discovery motions, shall meet and confer pursuant to Rule 37, Ariz.R.Civ.P. If the issues are straightforward enough not to require briefing, counsel may telephonically contact the Court to set up a telephonic conference to discuss any remaining issues.
14. The dates set forth in this Order are FIRM dates and will not be extended or modified by this Court absent good cause. Lack of preparation will not ordinarily be considered good cause.
15. Rule 38.1 of Ariz.R.Civ.P. is waived unless and until otherwise ordered by the Court.

Date

Honorable John Rea
Judge of the Superior Court